

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In Re:)	
)	
Cara Breanne Turner)	Case No. 18-14561
)	Chapter 7
)	
Debtors.)	

**MOTION FOR IN REM RELIEF FROM THE AUTOMATIC STAY
WAIVER OF FOURTEEN (14) DAY STAY,
MOTION FOR ORDER OF ABANDONMENT OR ALTERNATIVELY
FOR ADEQUATE PROTECTION AND NOTICE OF OPPORTUNITY FOR HEARING**

COMES NOW Ditech Financial LLC , authorized servicer for The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New York Trust Company, N.A., f/k/a JPMorgan Chase Bank, and Bank One, National Association, as Trustee, for Origen Manufactured Housing Contract Senior/Subordinate Asset Backed Certificates Trust, Series 2002-A, (“Ditech”), hereby moves this Court pursuant to 11 U.S.C. § 362(d)(4) for an order abandoning certain property, more particularly described hereinafter, and granting rem relief from the automatic stay in this matter.

This Motion is based on this Motion for In Rem Relief from Automatic Stay, the Notice of Motion for In Rem Relief from the Automatic Stay, the Memorandum of Points and Authorities in Support of the Motion for In Rem Relief from the Automatic Stay and the Declaration in Support of the Motion for In Rem Relief from the Automatic Stay filed concurrently herewith, the complete files and records in this action, the oral argument of counsel, if any, and such other and further evidence as the Court might deem proper.

This Motion is made on the grounds that multiple bankruptcy petitions have been filed in bad faith solely to hinder, defraud and delay Movant from exercising its rights and remedies in the Property as follows:

1. Cara Breanne Turner (“Debtor”) is the Debtor in the above captioned case pending under Chapter 7 of the Bankruptcy Code.

2. **Pursuant to 11 U.S.C. § 362(d)(4) Debtor's Bankruptcy Filing Was Part of a Scheme to Hinder, Defraud or Delay Movant Involving Multiple Bankruptcy Filings:** On 05/22/2009, Justin Clay Turner and Cara Breanne Turner filed a chapter 13 bankruptcy as case # 09-12751 in the Western District of Oklahoma. Both debtors were discharged on 11/13/2014 and case terminated on 12/18/2014. On 12/21/2017 Justin Clay Turner and Cara Breanne Turner filed a chapter 13 bankruptcy as case # 17-15115 in the Western District of Oklahoma. The case was dismissed on 03/07/2018 and case terminated 08/31/2018. On 04/24/2018 Justin Clay Turner and Cara Breanne Turner filed a chapter 13 bankruptcy as case # 18-11684 in the Western District of Oklahoma. The case was dismissed on 09/12/2018.

3. Ditech is a secured creditor of the debtor. Ditech Financial LLC is the authorized servicer for The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New York Trust Company, N.A., f/k/a JPMorgan Chase Bank, and Bank One, National Association, as Trustee, for Origen Manufactured Housing Contract Senior/Subordinate Asset Backed Certificates Trust, Series 2002-A. A true and correct copy of the filings with the Delaware Secretary of State and Power of Attorney is attached hereto as Exhibit "A" and made part hereof.

4. This Motion is filed pursuant to Bankruptcy Rules 7001 and 9013, this Court having jurisdiction over this matter pursuant to 28 U.S.C. §151 and 11 U.S.C. §362 and §554.

5. On or about the 10th day of January, 2002, Debtor and Co Borrower Justin Clay Turner, executed and delivered to Origen Financial LLC a certain Retail Installment Contract and Security Agreement ("Contract") in the original principal amount of \$154,752.35. A true

and correct copy of this contract is attached hereto as Exhibit “B” and made a part hereof. Ditech is now the holder of this contract, as defined by Oklahoma law.

6. As a part of the Retail Installment Contract and Security Agreement and as collateral, Debtor and Co Borrower granted a security interest to Ditech in the following described personal property, to-wit:

2002 Crest Ridge Manufactured Home, Serial # CRH2TX04640AB

Origen Financial LLC perfected its interest in the manufactured home by the filing of its lien entry with the Oklahoma Tax Commission on May 06, 2002. A true and correct copy of the lien entry is attached hereto as Exhibit “C” and made a part hereof.

7. Default has been made upon said Contract. As of November 05, 2018, the loan is due for May 15, 2017, and subsequent payments with an outstanding principal balance of \$41,804.73 plus accruing interest, attorney fees, costs and expenses, and other allowable charges. As a result of the default, cause exists to grant this Motion pursuant to § 362(d)(1). In addition, or in the alternative, Debtor has valued the subject property at \$47,624.00 and the amount owed to Movant/Creditor exceeds this value; accordingly, a lack of equity exists under § 362(d)(2) such that a basis exists to grant this Motion. The basis for the valuation is the Debtor’s Schedules A/B and D. A true and correct copy of Debtor’s Schedules A/B and D are attached to the Motion as Exhibit “D” and are incorporated herein by reference as though set forth in full.

8. The property described herein is burdensome to the Debtors’ estate and the Court should order the trustee to abandon said property pursuant to 11 U.S.C. §554.

9. By virtue of the default, Ditech, but for the automatic stay, is entitled to immediate possession of the property described herein so that it may enforce its rights pursuant to the Mortgage, promissory note, security agreement and applicable law.

10. Debtor has no equity in said property.

11. Said property is not necessary to an effective reorganization of Debtors.

12. If Ditech is not permitted to enforce its rights pursuant to the retail installment

contract and security agreement and applicable law, it will suffer irreparable injury, loss and damage. Therefore, this Court should lift the automatic stay to permit Ditech to obtain immediate possession of said property and to enforce its rights pursuant to the retail installment contract and security agreement and applicable law.

13. By virtue of the lack of equity in said property in favor of the Debtor, no other party-in-interest in this case holds an interest in said property.

14. Ditech asks for authority from this Court to add its costs and fees associated with this Motion to the balance of Debtors account with Ditech.

15. Documentation provided is in support of right to seek a lift of stay and foreclose if necessary.

For all the reasons discussed herein and in the documents filed in support of the Motion, Movant is entitled to relief from the automatic stay of 11 U.S.C. § 362(a) including in rem relief under 11 U.S.C. § 362(d)(4).

WHEREFORE, Movant respectfully prays that this Court issue an Order as follows:

(1) For an Order granting relief from and terminating the automatic stay as to Debtor and Debtor's estate to allow Movant, and or its successors and/or assigns, to proceed under applicable non-bankruptcy law to enforce its rights and remedies in the Property under the subject Note and Deed of Trust to foreclose upon and/or to take any other actions necessary to obtain possession of the Property.

(2) For an Order granting in rem relief under 11 U.S.C. § 362(d)(4) so that the Order granting relief, if recorded in compliance with applicable State laws governing notices of interest or liens in real property, shall be binding in any other case under this title purporting to affect the

Property filed not later than two (2) years after the date of entry of such order by the Court, except that a debtor in a subsequent case may move for relief from the order based upon good cause after notice and hearing

Dated: 12/06/2018

Respectfully submitted,

/s/ Sally E. Garrison

Sally E. Garrison, OBA # 18709
Shane M. Riddles-Hill, OBA # 32013
THE MORTGAGE LAW FIRM, PLLC
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Oklahoma City, OK 73012
Telephone: (405) 246-0602
Facsimile: (405) 698-0007
sally.garrison@mtglawfirm.com
shane.riddles-hill@mtglawfirm.com
Attorneys for Creditor

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102, no later than **fourteen (14)** days from the date of filing this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned Creditor/Creditor's attorney (and others who are required to be served) and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. **The fourteen (14) day period includes the three (3) days allowed for mailing provided for in Rule 9006(f) Fed.R.Bankr.Proc.**

WHEREFORE, for good cause and upon consideration of the grounds stated above, Creditor requests that the Court terminate the automatic stay pursuant to 11 U.S.C. § 362; require abandonment pursuant to 11 U.S.C. § 554; award Creditor its reasonable attorney's fees and costs; and to grant such other relief as the Court deems just and proper.

Respectfully submitted this December 06, 2018.

THE MORTGAGE LAW FIRM, PLLC

BY: /s/ Sally E. Garrison

Sally E. Garrison, OBA # 18709

Shane M. Riddles-Hill, OBA # 32013

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Oklahoma City, OK 73012

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E-mail: shane.riddles-hill@mtglawfirm.com

ATTORNEYS FOR CREDITOR

CERTIFICATE OF MAILING/ELECTRONIC TRANSMISSION

The hereby certify that on December 06, 2018, pursuant to Local Rule 4001-1(C) and Bankruptcy Rule 6007(a), I electronically mailed and mailed via U.S. Mail, first class, postage prepaid and properly addressed, a true and correct copy of the above foregoing: Motion for Relief from Automatic Stay, Motion for Order of Abandonment and Notice of Opportunity for Hearing with attached Exhibits and Notice of Electronic Filing, to all parties having interest in the Property affected by the Motion and all parties listed on the matrix attached thereto, including the United States Trustee, all creditors, indenture trustees, and committees elected pursuant to Section 705 or appointed pursuant to Section 1102 of the Code, and to the following:

Debtor

Cara Breanne Turner
PO Box 46
Randlett, OK 73562

Attorney for Debtor

Monte J. White
wf.ecf@aol.com
nancy@montejwhite.com
mjwlawton@outlook.com
ecfnotices-noreply@montejwhite.com

Trustee

Douglas N. Gould
5500 N. Western Ave., Ste 150
Oklahoma City, OK 73118
dg@dgouldlaw.net
dgould@ecf.epiqsystems.com
brook@dgouldlaw.net

/s/ Sally E. Garrison
Sally E. Garrison, OBA # 18709

Label Matrix for local noticing
1087-5
Case 18-14561
Western District of Oklahoma
Oklahoma City
Thu Dec 6 10:22:15 CST 2018

USBC Western District of Oklahoma
215 Dean A. McGee
Oklahoma City, OK 73102-3426

Afni
ATTN: Bankruptcy
PO Box 3097
Bloomington, IL 61702-3097

Ally Financial
Attn: Bankruptcy
PO Box 380901
Bloomington, MN 55438-0901

(p)CAINE & WEINER COMPANY
12005 FORD ROAD 300
DALLAS TX 75234-7262

Capital One
Attn: General Correspondence/Bankruptcy
PO Box 30285
Salt Lake City, UT 84130-0285

(p)CITY NATIONAL BANK & TRUST
PO BOX 2009
LAWTON OK 73502-2009

Cotton County Treasurer
Tammy Morris
301 N. Broadway
Walters, OK 73572-1209

Dillards Card Srvs/Wells Fargo Bank Na
PO Box 10347
Des Moines, IA 50306-0347

DirecTV
PO Box 105261
Atlanta, GA 30348-5261

Ditech
Attn: Bankruptcy
PO Box 6172
Rapid City, SD 57709-6172

Firstsource Advantage LLC
205 Bryant Woods South
Amherst, NY 14228-3609

Internal Revenue Service
Special Procedures-Insolvency
PO Box 7346
Philadelphia, PA 19101-7346

LVNV Funding/Resurgent Capital
PO Box 10497
Greenville, SC 29603-0497

Machol & Johannes LLC
Attorneys at Law
4401 N. Classen, Ste 500
Oklahoma City, OK 73118-5039

Oklahoma Tax Commission
100 N Broadway Ave Ste 1500
Oklahoma City, OK 73102-8601

(p)OKLAHOMA TAX COMMISSION
GENERAL COUNSEL S OFFICE
100 N BROADWAY AVE SUITE 1500
OKLAHOMA CITY OK 73102-8601

Regional Finance Corp
1915 W Gore Blvd Ste 3
Lawton, OK 73501-3661

Transworld Systems, Inc
500 Virginia Dr Ste 514
Fort Washington, PA 19034-2707

United States Trustee
United States Trustee
215 Dean A. McGee Ave., 4th Floor
Oklahoma City, OK 73102-3479

Cara Breanne Turner
PO Box 46
Randlett, OK 73562-0046

Douglas N. Gould
5500 N. Western Ave., Ste 150
Oklahoma City, OK 73118-4016

Monte J. White
1106 Brook Ave
Hamilton Place
Wichita Falls, TX 76301-5009

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Caine & Weiner
Attn: Bankruptcy
21210 Erwin St
Woodland Hills, CA 91367

City National Bank
Attn:Collections
PO Box 2009
Lawton, OK 73502

Oklahoma Tax Commission
Bankruptcy Section
120 N Robinson, Ste 2000W
Oklahoma City, OK 73152-3248

End of Label Matrix	
Mailable recipients	22
Bypassed recipients	0
Total	22